

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PATRICK BROWN,

Plaintiff,

v.

DOES 1-20,

Defendants.

CASE NO. 3:25-cv-05256-LK

ORDER DENYING EX PARTE
MOTION FOR EARLY
DISCOVERY

Before the court is pro se Plaintiff Patrick Brown's *Ex Parte* Motion for Early Discovery. Dkt. No. 9. Having considered the motion, the relevant portions of the record, and the governing law, the Court DENIES the motion.

I. BACKGROUND

Mr. Brown owns and operates a portfolio of "premium fetish adult-oriented audiovisual content[.]" Dkt. No. 7 at 5. He alleges that he holds copyrights in these audiovisual works. *Id.* at 5–6. He has sued 20 defendants that are "currently unknown individual(s) and/or entity(ies) that own and operate four websites" comprising a "Pirate Network" that allegedly display his copyrighted works without license or authorization. *Id.* at 1–2.

II. DISCUSSION

Mr. Brown seeks to serve subpoenas on “the website hosting companies and internet service providers associated with the . . . Pirate Network and the delivery of its content” in order to “discover the true identity of” defendants and then “serve them with process in this case.” Dkt. No. 9 at 2. Although Mr. Brown attests that he has contacted various of these companies and providers, they have either not responded or indicated that they would not produce information without a subpoena. Dkt. No. 11 at 1–2.

A. Jurisdiction and Venue

Mr. Brown raises a claim of copyright infringement under the Copyright Act, 17 U.S.C. § 101 *et seq.* Dkt. No. 7 at 11–13. “[J]ust because a case involves a copyright does not mean that federal subject matter jurisdiction exists”; to properly invoke federal subject matter jurisdiction, one of three things must exist: (1) the complaint asks for a remedy expressly granted by the Copyright Act; (2) the complaint requires an interpretation of the Act; or (3) federal principles should control the claims. *Scholastic Ent., Inc. v. Fox Ent. Grp., Inc.*, 336 F.3d 982, 985–86 (9th Cir. 2003). Here, Mr. Brown seeks remedies expressly granted by the Copyright Act—i.e., actual damages, statutory damages, and injunctive relief. Dkt. No 7 at 12–13 (citing 17 U.S.C. §§ 502–504). Accordingly, he has provided a basis for jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

However, as explained below, it is unclear whether Mr. Brown has standing, and Mr. Brown has also not demonstrated a good-faith belief that this Court has personal jurisdiction over defendants or that venue is proper in this District.

B. Legal Standard

Federal Rule of Civil Procedure 26 provides that “a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f)” unless authorized by the Court. Fed. R. Civ. P. 26(d)(1). However, the Ninth Circuit has held that when a defendant’s identity is

1 unknown at the time the complaint is filed, a court should grant leave to take early discovery to
2 determine that defendants' identities "unless it is clear that discovery would not uncover the
3 identities, or that the complaint would be dismissed on other grounds." *Gillespie v. Civiletti*, 629
4 F.2d 637, 642 (9th Cir. 1980). A party who requests early or expedited discovery must make a
5 showing of good cause. *See Semitool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D. 273, 275–76
6 (N.D. Cal. 2002) (applying "the conventional standard of good cause in evaluating Plaintiff's
7 request for expedited discovery").

8 To determine whether "good cause" exists to permit expedited discovery to identify Doe
9 defendants, district courts in the Ninth Circuit consider whether the plaintiff (1) "identif[ies] the
10 missing party with sufficient specificity such that the Court can determine that [the] defendant is
11 a real person or entity who could be sued in federal court"; (2) "identif[ies] all previous steps taken
12 to locate the elusive defendant" to ensure that plaintiff has made a good faith effort to identify the
13 defendant; (3) "establish[es] to the Court's satisfaction that plaintiff's suit against defendant could
14 withstand a motion to dismiss"; and (4) "justif[ies] the specific discovery requested as well as
15 identifi[es] a limited number of persons or entities on whom discovery process might be served
16 and for which there is a reasonable likelihood that the discovery process will lead to identifying
17 information about [the] defendant that would make service of process possible." *Columbia Ins.*
18 *Co. v. seescandy.com*, 185 F.R.D. 573, 578–80 (N.D. Cal. 1999).¹ A district court's decision to
19 grant discovery to determine jurisdictional facts is a matter of discretion. *See Wells Fargo & Co.*
20 *v. Wells Fargo Express Co.*, 556 F.2d 406, 430 n.24 (9th Cir. 1977).

21
22 ¹ This test reflects relevant considerations under Federal Rules of Civil Procedure 45 and 26. Rule 45(d)(3)(A) requires
23 a district court to "quash or modify a subpoena that . . . subjects a person to undue burden." "If a subpoena compels
24 disclosure of information that is not properly discoverable, then the burden it imposes, however slight, is necessarily
undue: why require a party to produce information the requesting party has no right to obtain?" *AF Holdings, LLC v.*
Does 1-1058, 752 F.3d 990, 995 (D.C. Cir. 2014). In turn, Rule 26(b)(1) limits discovery to subject matter "that is
relevant to any party's claim or defense." "The identity of prospective defendants who cannot properly be sued in this
district can be of little use in a lawsuit brought in this district." *AF Holdings*, 752 F.3d at 995.

C. Mr. Brown has Failed to Show Good Cause for Early Discovery

Even assuming without deciding that Mr. Brown has satisfied the first, second, and fourth components of the four-part test regarding expedited discovery, he has not shown that his suit could withstand a motion to dismiss.

1. It is Unclear Whether Mr. Brown has Standing

First, the Court has been unable to verify that Mr. Brown owns the subject copyrights. For example, Mr. Brown alleges that he owns copyrights with the following registration numbers:

PA0001706340
PA0001707340
PA0001707341
PA0001707342
PA0001707343
PA0001707344

Dkt. No. 1-6 at 2. But a search of copyright registration numbers beginning with “PA000170734” on copyright.gov yields the following result:

Advanced Search

Select record type to begin advanced search

☒ All records ☐ Registration ☐ Recordation

Field Heading

All Copyright Numbers

Search Type

Starts with

PA000170734

+ Add a row

Clear all

Search

Search Results

Top search results: 9

Displaying: 1-9 of 9

<input type="checkbox"/>	Actions	Sort by	Grid View	Table View	Previous	Next
<input type="checkbox"/>	1.	Full Title: Watch my lips (read my eyes) /by Harlan Howard, Kevin Welch Registration Number: PA0000170734 Type of Work: Music	Date: 1983-03-10 Claimant: Tree Publishing Company, Inc. & Cross Keys Publishing ...			
<input type="checkbox"/>	2.	Full Title: Never (While You Shit) Registration Number: PA0001707349 Type of Work: Motion Pictures	Date: 2010-10-12 Claimant: Johann Casas.			
<input type="checkbox"/>	3.	Full Title: PINK GLOVE DANCE SEQUEL Registration Number: PA0001707347 Type of Work: Motion Pictures	Date: 2010-10-11 Claimant: Medline Industries, Inc.			

<input type="checkbox"/>	4.	Full Title: THE INSIDER : 316-5 Registration Number: PA0001707346 Type of Work: Motion Pictures	Date: 2010-11-02 Claimant: CBS Studios Inc.
<input type="checkbox"/>	5.	Full Title: Sound and Your Ears Registration Number: PA0001707348 Type of Work: Motion Pictures	Date: 2010-10-13 Claimant: Terri Winston.
<input type="checkbox"/>	6.	Full Title: Corbin Fisher Amateur College Men Neal Registration Number: PA0001707345 Type of Work: Motion Pictures	Date: 2010-10-11 Claimant: Liberty Media Holdings, LLC
<input type="checkbox"/>	7.	Full Title: PINK GLOVE DANCE SEQUEL :Motion pictureReg. PA0001707347 Document Number: V15004D572	Date of Recordation: 2021-11-10
<input type="checkbox"/>	8.	Full Title: PINK GLOVE DANCE SEQUEL CopyrightReg. PA0001707347 Document Number: V15023D713	Date of Recordation: 2024-04-02

10 rows ▾

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1 ◂ ▸ Go

Only “[t]he legal or beneficial owner of an exclusive right under a copyright” has standing to bring a copyright infringement action under the Act. 17 U.S.C. § 501(b). Absent standing, Mr. Brown’s complaint would not withstand a motion to dismiss.

2. Mr. Brown’s Allegations do not Adequately Establish Personal Jurisdiction

Second, there is a serious question as to whether Mr. Brown’s claims against the 20 defendants can survive a motion to dismiss for lack of personal jurisdiction.

In cases where the identity of defendants is not yet known, the Court “must balance the need for discovery against the interests of justice, which includes consideration of the prejudice to the [targets of the plaintiff’s discovery requests] and to the Doe Defendants.” *808 Holdings, LLC v. Collective Sharing Hash E37917C8EEB4585E6421358FF32F29CD63C23C91*, No. 12-CV-00191-MMA-RBB, 2012 WL 1581987, at *6 (S.D. Cal. May 4, 2012). Where a plaintiff “attempts to use the machinery of the courts to force a party to comply with its discovery demands” in connection with unknown defendants, the plaintiff “must have at least a good faith belief that such discovery will enable it to show that the court has personal jurisdiction over the defendant[s].” *AF Holdings*, 752 F.3d at 994–95 (cleaned up); *see also 808 Holdings*, 2012 WL 1581987, at *6 (“The

1 judicial process should not be manipulated to obtain confidential information about Defendants
2 not subject to the Court’s jurisdiction.”).

3 Where no federal statute authorizes personal jurisdiction, the district court applies the law
4 of the state in which the court sits. Fed. R. Civ. P. 4(k)(1)(A); *Panavision Int’l, L.P. v. Toeppen*,
5 141 F.3d 1316, 1320 (9th Cir. 1998); *Ranza v. Nike, Inc.*, 793 F.3d 1059, 1068 (9th Cir. 2015).
6 Washington’s long-arm statute is coextensive with federal due process requirements. *See* Wash.
7 Rev. Code § 4.28.185; *Downing v. Losvar*, 507 P.3d 894, 905–06, 917 (Wash. Ct. App. 2022).
8 “For a court to exercise personal jurisdiction over a nonresident defendant consistent with due
9 process, that defendant must have ‘certain minimum contacts’ with the relevant forum ‘such that
10 the maintenance of the suit does not offend ‘traditional notions of fair play and substantial justice.’”
11 *Mavrix Photo, Inc. v. Brand Techs., Inc.*, 647 F.3d 1218, 1223 (9th Cir. 2011) (quoting
12 *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945)). If defendants are not subject to
13 the personal jurisdiction of any state court of general jurisdiction, the federal court’s exercise of
14 personal jurisdiction must still comport with federal due process. *See* Fed. R. Civ. P. 4(k)(2).

15 Here, Mr. Brown alleges that “[t]his Court has personal jurisdiction pursuant to 28 U.S.C.
16 §§ 1391(b), (c) and/or (d) and 28 U.S.C. § 1400(a).” Dkt. No. 7 at 5. However, he does not allege
17 any specific facts supporting that the Court has either personal or general jurisdiction over
18 defendants. While Mr. Brown alleges that the Pirate Network is “based and operated outside the
19 United States,” he makes no allegations regarding defendants’ locations and instead states that “[i]t
20 is currently unknown where the owners and operators are located.” *Id.* at 6. Mr. Brown and his
21 company are located in Laguna Beach, California. *Id.* at 18. Thus, he does not allege that
22 defendants are not subject to the personal jurisdiction of any state court (which would implicate
23 Rule 4(k)(2)), nor does he suggest that any defendant resides in the State of Washington or that
24 defendants’ contacts with Washington are so substantial, continuous, and systematic as to render

1 them essentially at home here. *See Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S.
2 915, 919 (2011); *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 592 U.S. 351, 358–59 (2021).
3 Therefore, Mr. Brown has not alleged general jurisdiction, and the Court turns to the three-part
4 test governing personal jurisdiction:

5 (1) The non-resident defendant must purposefully direct his activities or
6 consummate some transaction with the forum or resident thereof; or perform some
7 act by which he purposefully avails himself of the privilege of conducting activities
8 in the forum, thereby invoking the benefits and protections of its laws;

9 (2) the claim must be one which arises out of or relates to the defendant’s forum-
10 related activities; and

11 (3) the exercise of jurisdiction must comport with fair play and substantial justice,
12 i.e. it must be reasonable.

13 *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 802 (9th Cir. 2004) (quoting *Lake v.*
14 *Lake*, 817 F.2d 1416, 1421 (9th Cir. 1987)).² Mr. Brown bears the burden of satisfying the first
15 two prongs of the test. *Sher v. Johnson*, 911 F.2d 1357, 1361 (9th Cir. 1990). If he fails to meet
16 this burden, Washington courts lack specific personal jurisdiction.

17 Mr. Brown’s complaint is devoid of any specific, non-conclusory allegations showing that
18 defendants purposefully directed their activities or consummated some transaction with
19 Washington or its residents, or performed some act by which they purposefully availed themselves
20 of the privilege of conducting activities in Washington, thereby invoking the benefits and
21 protections of its laws. Mr. Brown instead focuses on defendants’ efforts relative to the United
22 States writ large. He alleges that the largest portion of the Pirate Network’s viewership is from the
23 United States, and defendants “target the entire United States, including residents of this District,”
24 and “are working to increase viewership in the United States.” Dkt. No. 7 at 2–3. In addition,

² If Mr. Brown had alleged that defendants’ domicile is such that they are not subject to the personal jurisdiction of any state court (he has not), the test for personal jurisdiction is identical to the one discussed above, except the relevant forum would be the entire United States. *Pebble Beach Co. v. Caddy*, 453 F.3d 1151, 1159 (9th Cir. 2006).

1 “Defendants utilize predominantly United States models, shot in United States locations, to target
2 the United States market.” *Id.* at 3. Mr. Brown’s sole allegation regarding defendants’ activity
3 relative to the State of Washington is that “[u]pon information and belief,” defendants “all transact
4 business in this Judicial District by way of their interactive website and through their interactivity
5 with United States and Washington residents who have been offered the infringing and unlawful
6 content at issue herein and who have, themselves, engaged in acts of infringement in this District
7 and State.” *Id.* at 5. But Mr. Brown offers no specific allegations suggesting that defendants have
8 actually done so.

9 A long line of Ninth Circuit precedent demonstrates that these allegations do not suffice to
10 establish personal jurisdiction. In *Cybersell, Inc. v. Cybersell, Inc.*, the court held that Arizona did
11 not have “personal jurisdiction over an allegedly infringing Florida web site advertiser who has no
12 contacts with Arizona other than maintaining a home page that is accessible to Arizonans, and
13 everyone else, over the Internet.” 130 F.3d 414, 415 (9th Cir. 1997). The court observed that “no
14 court has ever held that an Internet advertisement alone is sufficient to subject the advertiser to
15 jurisdiction in the plaintiff’s home state”; rather, there must be “‘something more’ to indicate that
16 the defendant purposefully (albeit electronically) directed his activity in a substantial way to the
17 forum state.” *Id.* at 418. “*Cybersell* thus recognized two significant concepts” regarding specific
18 personal jurisdiction: (1) “contacts with the forum state could be in the form of electronic
19 contacts”; and (2) “‘something more’ than mere passive nationwide accessibility was required to
20 show express aiming at the forum state and, thus, satisfy due process.” *Briskin v. Shopify, Inc.*, 135
21 F.4th 739, 752 (9th Cir. 2025).

22 “Something more” existed when a “cyber-pirate” who used corporations’ trademarks to
23 register domain names on the Internet by means of false representations demanded money in
24 exchange for acceding to a takedown request from the California-based trademark holder.

1 *Panavision International, L.P. v. Toeppen*, 141 F.3d 1316 (9th Cir. 1998). The Ninth Circuit
2 reasoned that the defendant’s attempt to extort the plaintiff “established express aiming of tortious
3 conduct toward California.” *Briskin*, 135 F.4th at 753; *see also Panavision*, 141 F.3d at 1322
4 (reasoning that “Toeppen engaged in a scheme to register Panavision’s trademarks as his domain
5 names for the purpose of extorting money from Panavision” and that his “conduct, as he knew it
6 likely would, had the effect of injuring Panavision in California,” its principal place of business
7 and the center of the movie and television industry). “Something more” likewise existed when a
8 foreign business entity allegedly used a Nevada sports gambling entity’s trademarks on the foreign
9 entity’s online sports gambling site. *Rio Properties, Inc. v. Rio International Interlink*, 284 F.3d
10 1007 (9th Cir. 2002). There, the Court explained that the foreign entity “knowingly injured [the
11 plaintiff] in Nevada—its principal place of business and the capital of the gambling industry” by
12 “directly targeting the forum . . . by running radio and print advertisements in Las Vegas.” *Id.* at
13 1020 (quotation marks omitted). Similarly, in *Mavrix Photo, Inc.*, a defendant had expressly aimed
14 its conduct at the forum state by placing the plaintiff’s photos on a website with nationwide
15 consumption, thereby “appeal[ing] to, and profit[ing] from, an audience in a particular state[.]”
16 647 F.3d at 1231.

17 Importantly, “[n]ot all material placed on the Internet is, solely by virtue of its universal
18 accessibility, expressly aimed at every state in which it is accessed.” *Id.* Thus, a plaintiff failed to
19 show express aiming at the forum state when the defendant merely advertised its British bed and
20 breakfast using “[a] [potentially infringing] internet domain name and [a] passive website.” *Pebble*
21 *Beach Co. v. Caddy*, 453 F.3d 1151, 1158 (9th Cir. 2006). The court in *Pebble Beach* cautioned
22 that a plaintiff does not satisfy the “express aiming” standard by simply suggesting “a foreseeable
23 effect” in the forum state. *Id.*

1 Here, Mr. Brown does not raise any non-conclusory allegations demonstrating express
2 aiming by defendants at Washington. Again, his sole allegation regarding defendants' activity with
3 respect to Washington is that they "all transact business in this Judicial District by way of their
4 interactive website and through their interactivity with United States and Washington residents
5 who have been offered the infringing and unlawful content at issue herein and who have,
6 themselves, engaged in acts of infringement in this District and State." Dkt. No. 7 at 5. These
7 conclusory allegations do not suffice to establish a reasonable basis for personal jurisdiction. *See*
8 *Swartz v. KPMG LLP*, 476 F.3d 756, 766 (9th Cir. 2007) (finding conclusory allegations that
9 defendants "directed communication into the U.S. Western District of Washington and otherwise
10 conducted business therein" insufficient to make a prima facie showing of personal jurisdiction);
11 *Pado, Inc. v. Wieder & Friedman Enter. Inc.*, No. CV2004278CJCPVCX, 2020 WL 13368480, at
12 *3 (C.D. Cal. July 9, 2020) (allegation that "some portion of Defendants' 20,000 product sales
13 must have gone to California" was not sufficient to establish personal jurisdiction); *Bralich v.*
14 *Sullivan*, No. CV 17-00547 ACK-RLP, 2018 WL 1938297, at *7 (D. Haw. Apr. 23, 2018)
15 (conclusory assertion that the level of interactivity and commercial nature of defendants' websites
16 constitutes purposeful availment did not establish personal jurisdiction); *Nutrition Distribution*
17 *LLC v. Bigdangfitness, LLC*, No. 17-CV-00920-JAH-MDD, 2018 WL 1108041, at *3 (S.D. Cal.
18 Feb. 26, 2018) (conclusory allegations that defendant was an online retailer and "developed,
19 licensed, manufactured, shipped, distributed, offered for sale, sold and advertised its nutritional
20 supplement products in . . . California and this district" were insufficient to support court's exercise
21 of jurisdiction over defendant); *Adobe Sys. Inc. v. Cardinal Camera & Video Ctr., Inc.*, No. 15-
22 CV-02991-JST, 2015 WL 5834135, at *5 (N.D. Cal. Oct. 7, 2015) (plaintiff's "bald assertion that
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the [defendant's] website is 'interactive' and . . . features infringing . . . products for sale" did not sufficiently allege that defendant's website targeted California).³

3. Mr. Brown's Allegations do not Establish a Colorable Basis for Venue

In the same vein, Mr. Brown has not shown that his complaint could survive a motion to dismiss or transfer for improper venue. He alleges that "[v]enue is appropriate in this District pursuant to 28 U.S.C. § 1391(b) and/or (c)." Dkt. No. 7 at 5. "Section 1391 governs 'venue generally,' that is, in cases where a more specific venue provision does not apply," *Atl. Marine Const. Co. v. U.S. Dist. Ct. for W. Dist. of Texas*, 571 U.S. 49, 55 n.2 (2013), but in copyright cases, venue lies "in the district in which the defendant or his agent resides or may be found," 28 U.S.C.A. § 1400(a). In the event no defendant resides in a district within the United States, Section 1391(c) controls. *Michael Grecco Prods. Inc. v. ImageSelect B.V.*, No. LA CV22-07398-JAK-JPRX, 2024 WL 1640911, at *11 (C.D. Cal. Mar. 11, 2024); *see also Brunette Mach. Works, Ltd. v. Kockum Indus., Inc.*, 406 U.S. 706, 714 (1972). That section provides that "a defendant not resident in the United States may be sued in any judicial district." 28 U.S.C. § 1391(c)(3). "The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a).

³ The Court further notes that, to the extent defendants are subject to the personal jurisdiction of a state court of general jurisdiction, the evidence Mr. Brown does possess appears to support personal jurisdiction in at least one other state, but not Washington. For example, he alleges that defendants have contracted with Fastly, Inc., a California-based Content Delivery Network, to host content on one Pirate Network. Dkt. No. 7 at 3. Any video displayed on that Pirate Network is delivered through the URL pvvstream.pro, which "is hosted on servers located in California owned by Cloudflare, Inc., a corporation incorporated under the laws of the State of Delaware." *Id.* at 4. And the ".PRO top-level domain is administered by Registry Services Corporation, based in Illinois, United States." *Id.* All four Pirate Network sites use ".COM and .NET top-level domains," which "are administered by Verisign, Inc., a corporation based in Virginia, United States." *Id.*

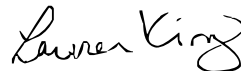
Defendants also use Secure Sockets Layer certificates for the domains in the Pirate Network through Google Trust Services, "a California-based company." *Id.* To "track the number and behavior of visitors" on the Pirate Network, defendants use Google Analytics, which is provided by California-based Google LLC. *Id.* And finally, defendants "have a direct advertising contract with Chaturbate.com (a website operated by Multi Media, LLC, a corporation incorporated under the laws of the State of California)." *Id.*

1 Mr. Brown does not allege that defendants do not reside in the United States. Nor do any
2 of his allegations suggest that they or their agents reside in this District. Absent any allegation
3 regarding defendants' location, there is not a colorable basis for venue in this District.

4 **III. CONCLUSION**

5 For the foregoing reasons, the court DENIES Mr. Brown's motion for early discovery, Dkt.
6 No. 9, without prejudice to renewing his motion after the above-described deficiencies are
7 addressed by way of an amended complaint. Alternatively, Mr. Brown may file a motion to transfer
8 venue.

9 Dated this 19th day of May, 2025.

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Lauren King
12 United States District Judge
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